

Highly Confidential - Attorneys' Eyes Only

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
Defendant.)
-----)

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Videotaped Deposition of BOB LEE,
taken at 110 Fifth Street, Suite 400,
San Francisco, California, commencing
at 9:35 a.m., Wednesday, August 3, 2011,
before Leslie Rockwood, RPR, CSR No. 3462.

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1 that the Google and Noser team fixed up the Harmony code
2 and made it more optimal for Android?

3 MR. PURCELL: Object to the form.

4 THE WITNESS: I mean, we improved Harmony and
5 contributed those changes back. 11:42:55

6 Q. BY MR. PETERS: So Google -- Google took the
7 changes it had made to the Harmony code and sent it back
8 up stream to Apache?

9 A. Correct.

10 Q. Why did Google think that it could use -- let 11:43:18
11 me start over.

12 Why did Google think that it could release a
13 product, including Java API implementations based on
14 Harmony, when Apache was in a dispute with Sun about
15 whether or not Harmony could be put on mobile devices? 11:43:53

16 MR. PURCELL: Object to the form.

17 THE WITNESS: Well, like I said before, that
18 dispute came to light, at least to me, much later.

19 And also, there's the issue where Harmony had
20 a different goal. Harmony was trying to license and 11:44:09
21 implement Java SE. Android is creating something new
22 that doesn't exist yet. So there was no specification
23 that Android can and could adhere.

24 MR. PURCELL: Counsel, by my clock, we have
25 about five minutes left of the two hours. 11:44:30

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1 MR. PETERS: All right.

2 THE WITNESS: So they had very different
3 goals.

4 Q. BY MR. PETERS: Did Google analyze whether or
5 not the dispute between Sun and Apache was any bar to its 11:44:52
6 release of Android?

7 MR. PURCELL: Object to the form.

8 And to the extent you're aware of any
9 analysis done by Google's lawyers or at the instruction
10 of Google's lawyers, I instruct you not to answer. 11:45:04

11 THE WITNESS: Okay. I'm not sure. I don't
12 know.

13 Q. BY MR. PETERS: What did you do to resolve
14 the dispute between Sun and Apache?

15 MR. PURCELL: Object to the form. 11:45:21

16 THE WITNESS: What did I do to resolve the
17 dispute between Sun and Apache? Well, I thought really
18 hard about it, about trying to come up with some kind of
19 compromise with them and wasn't able to. And we
20 encouraged them to seek mediation. And they weren't up 11:45:39
21 for that.

22 There wasn't really a whole lot I could do,
23 because this was -- I mean, it was mostly a private
24 dispute. Like I said, these contracts are confidential
25 and stuff. So I wasn't even able to see them. 11:45:53

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1 Q. BY MR. PETERS: Did Google -- as a way to put
2 pressure on Sun in the Sun Apache dispute, did Google
3 stop voting for JSRs with -- having licensing terms that
4 it disagreed with?

5 MR. PURCELL: Object to the form. 11:46:16

6 THE WITNESS: To my knowledge, it voted "no".
7 Because those -- for example, the latest Java -- JSR
8 violates the JSPA. So it would be -- it would sully the
9 JCP process to vote "yes" on something like that.

10 Q. BY MR. PETERS: What is the latest Java JSR? 11:46:35

11 A. The one that was just voted on is SE 7.

12 Q. Okay. But SE 7 passed; is that right?

13 A. Yes. With the majority of the members
14 explicitly objecting to what Oracle's doing.

15 Q. But although they may have stated objections, 11:47:03
16 the majority of the members of the JCP executive
17 committee did vote for SE 7; is that right?

18 A. Well, it's worth noting that besides Google,
19 Doug Lea steps down over this issue, so did not vote. As
20 did the Apache Software Foundation. So they did not 11:47:23
21 vote. As did Tim Peierls also stepped down over this
22 issue and didn't vote.

23 So really, the only people that are left are
24 partners of Oracle, so --

25 MR. PURCELL: Counsel, there's about two 11:47:41

1 STATE OF CALIFORNIA) ss:

2 COUNTY OF MARIN)

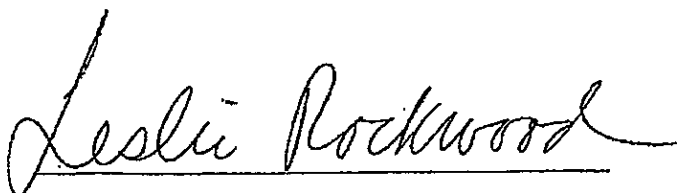
3
4 I, LESLIE ROCKWOOD, CSR No. 3462, do hereby
5 certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all
10 objections made by counsel at the time of the examination
11 were recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel
17 for any party to said action, nor am I related to any
18 party to said action, nor am I in any way interested in
19 the outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 4th day of August, 2011.

22
23 
24

25 LESLIE ROCKWOOD, CSR. NO. 3462